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THE SITUATION IN BOSNIA AND HERZEGOVINA

SECURITY COUNCIL
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Letter dated 24 November 1998 from the Permanent Representatives of Bosnia and Herzegovina and Croatia to the United Nations addressed to the Secretary-General

We have the honour to bring to your attention that the President of the Republic of Croatia, Franjo Tuđman, and the President and Vice-President of the Federation of Bosnia and Herzegovina, Ejup Ganić and Vladimir Šoljić, signed, on 22 November 1998, the Agreement on the Establishment of Special Relations between the Republic of Croatia and the Federation of Bosnia and Herzegovina (see annex I), and that the President of the Republic of Croatia, Franjo Tuđman, and the President of the collective presidency of Bosnia and Herzegovina, Alija Izetbegović, signed, on 22 November 1998, the Agreement on Free Transit through the Territory of Croatia to and from the port of Ploče and through the Territory of Bosnia and Herzegovina in Neum (see annex II). The agreements were signed following the inaugural session of the Croatian-Bosnian Interstate Council for Cooperation.

We have the honour to request that the present letter and its annexes be distributed as a document of the General Assembly, under agenda item 41, and of the Security Council.

(Signed) Muhamed SACIRBEY
Ambassador
Permanent Representative
of Bosnia and Herzegovina

(Signed) Ivan ŠIMONOVIĆ
Ambassador
Permanent Representative
of the Republic of Croatia

Annex I

Agreement on the Establishment of Special Relations Between the Republic of Croatia and the Federation of Bosnia and Herzegovina

Convinced that a consistent, full and expedited implementation of the General Framework Agreement for Peace in Bosnia and Herzegovina and its annexes (hereinafter: the Peace Agreement) makes the basis for the creation of conditions for the lasting coexistence of the Croatian and Bosniak peoples, as well as other peoples and all citizens of the Federation of Bosnia and Herzegovina (hereinafter the B-H Federation), and also for the establishment of close special relations and development of cooperation between the Republic of Croatia and the Federation, initiated by the Washington Agreements, in the interest of ensuring lasting peace and stability in this part of Europe;

Starting from the sovereignty, territorial integrity and political independence of Bosnia and Herzegovina, and with regard to the Peace Agreement, in particular Article V and Annex 4 thereof,

Affirming the readiness to regulate the relations between the Republic of Croatia and the B-H Federation through special institutionalized and other forms of cooperation, in conformity with the commitments of the signatories of the Peace Agreement;

Convinced that the strengthening of cooperation and links between the Republic of Croatia and the B-H Federation contributes to their lasting overall social, democratic and economic development, as envisaged by the Washington Agreements,

Wishing to establish aforementioned principles and objectives, in accordance with the Washington Agreements of 18 March 1994 and Peace Agreement signed in Paris on 14 December 1995, the Republic of Croatia and the B-H Federation have reached

The Agreement on Establishment of Special Relations

Article 1

The Republic of Croatia and the B-H Federation hereby establish their special relations, the objective of which is to gradually build up an ever developing institutionalized cooperation, as well as other forms of mutual cooperation, depending upon the general political and economic conditions, and upon the respect of special interests of the Republic of Croatia and the B-H Federation.

Article 2

The special relations under the Article 1 of this Agreement refer to the promotion of the fully transparent cooperation of executive, legislative and other institutions of the Republic of Croatia and the B-H Federation, in accordance with the Peace Agreement and the Constitutions of the B-H Federation and Bosnia Herzegovina in the following fields:

1. economic cooperation and trade, promotion of joint investments, particularly into the fields of traffic infrastructure, communications and telecommunications, development and cooperation in the exploitation of industrial, energy, agricultural and other potentials and capacities;
2. promotion and cooperation in the field of planning and economic policy, and cooperation in development and reconstruction;
3. cooperation in the field of legislation;
4. cooperation in the implementation of privatization and denationalization;
5. cooperation in the field of science and technology, education, culture and sport;
6. cooperation in the field of social policy and health;
7. cooperation in the field of tourism, environmental protection and exploitation of natural resources;
8. cooperation in the field of information;
9. cooperation in the development of regional and local administration and self-government;
10. cooperation in resolving of property issues;
11. cooperation in combating crime;
12. cooperation in the field of defence (education, equipping, joint production etc.), to an extent which shall be in accordance with the territorial integrity and sovereignty of Bosnia and Herzegovina and the Peace Agreement;

13. promotion of cooperation between the non-governmental organizations;

14. in accordance with the provisions of Washington and Peace Agreements, the Parties, within the limits of their authorities, shall strive towards the establishment of an European traffic corridor from the Ploče port to the northern border of Bosnia Herzegovina, and they agree upon a need to construct the road Dubrovnik-Ploče-Bihać-Zagreb (through Neum). The Parties shall establish joint associations for the harmonization of infrastructure construction and the flow of land traffic in terms of connecting the Republic of Croatia and the B-H Federation.

Article 3

For the purpose of implementing the special relations between the Republic of Croatia and the B-H Federation, a Joint Council for Cooperation between the Republic of Croatia and the B-H Federation (hereinafter: the Council) shall be established.

The Council prepares and adopts proposals and recommendations for the relevant executive, legislative, scientific, cultural and other institutions of the Republic of Croatia and the B-H Federation.

Article 4

The Council consists of the President of the Republic of Croatia, and the President and Vice-President of the B-H Federation. The Council appoints a Standing Committee composed of six (6) members. The Republic of Croatia shall be represented in the Standing Committee by the Prime Minister, one of the Deputy Prime Ministers and one relevant Minister, while the B-H Federation shall be represented by the Prime Minister, Deputy Prime Minister of the B-H Federation and a relevant Minister.

The Council and the Committee adopts proposals and recommendation by consensus.

The Council shall adopt its Rules of Procedure.

The Parties shall nominate the Standing Committee members within fifteen (15) days following the signing of this Agreement.

Article 5

For the purpose of ensuring the harmonization and efficiency in its work, the Council shall nominate two Secretaries, one from the Republic of Croatia and the

other from the B-H Federation.

The Secretaries are responsible for their work to the Council. They harmonize the preparations for the Council sessions and ensure the efficient implementation of its proposals and recommendations, in cooperation with the relevant bodies of the Republic of Croatia and the B-H Federation.

Pursuant to a Council decision, the Secretaries shall prepare a proposal of the Rules of Procedure.

Article 6

The sessions of the Council shall be held, as a rule, once every three months, alternatively in the Republic of Croatia and in the B-H Federation.

The Standing Committee shall meet as necessary.

Article 7

The Council shall regularly inform the public by means of press statements on its proposals and recommendations.

Article 8

The Parties shall work towards implementing the cooperation foreseen in this Agreement at the level of regions, cantons, cities and municipalities, economic entities and various non-governmental organizations.

Article 9

For the purpose of extending the cooperation in the legislative field, there shall be regular contacts between the relevant bodies of the Croatian State Parliament and the Parliament of the B-H Federation.

Article 10

The Parties shall sign the Annexes to this Agreement, by the 1st of July 1999, for the purpose of working out in detail the implementation and taking the steps necessary for the implementation of the cooperation at the fields envisaged by the

Article 2 of this Agreement.

The Parties will welcome the assistance of the Office of the High Representative in facilitating the timely completion of the Annexes from the Paragraph 1 of this Article.

The Annexes from the Paragraph 1 of this Article shall enter into force at the day of their signing, but not later than 1st of July 1999.

Article 11

The Parties agree to initiate the activities aiming to harmonize the agreements signed so far between the Republic of Croatia and the Republic of Bosnia and Herzegovina, which are being implemented on the territory of the B-H Federation, with the Peace Agreement and this Agreement, or to replace them.

For any existing agreement from the Paragraph 1 of this Article which will be found as not being in accordance with the Peace Agreement, the Constitution of Bosnia Herzegovina or the Constitution of the B-H Federation, a process of drafting the appropriate annexes to this Agreement or of harmonizing the aforementioned agreements will be initiated not later than three months following the signing of this Agreement.

If the process of harmonizing the agreements, or of replacing them, will not be agreed within that time-frame, and if the reason of disagreement will be the differences between the Croatian and Bosniak representatives in the B-H Federation, the Parties agree that the representatives of the B-H Federation will accept the assistance and arbitration of the Office of the High Representative in resolving these differences, in order to harmonize the agreements or agree the annexes by the 1st of July 1999.

If the process of harmonizing the agreements, or agreeing the annexes will not be completed by that date, the Parties agree that the existing agreements may remain in force until the 1st of September 1999.

Article 12

The Parties confirm their readiness to resolve all questions of vital interest by consensus of the Croatian and Bosniak peoples, through the relevant institutions in accordance with the provisions of the Constitution of the B-H Federation, for the purpose of ensuring an effective functioning of the B-H Federation and effective implementation of the Agreement on special relations between the Republic of Croatia and the Federation of Bosnia and Herzegovina.

Article 13

Once mutually signed, the Agreement shall be applied on a provisional basis and shall enter into force thirty (30) days after receipt of the last notification that all conditions required by internal legislation are fullfilled by each of the Contracting Parties for entry into force of the Agreement.

The Parties take the obligation to finalize the process of ratifying this Agreement within three (3) months from the day of its signing.

Done at Zagreb on 22 November 1998, in two (2) original copies, each in the Croatian language for the Republic of Croatia and for the Federation of Bosnia and Herzegovina in the official languages - Bosnian language and Croatian language, with each text being equally authentic.

For the Republic of Croatia **For the B-H Federation**

Annex II

AGREEMENT

ON FREE TRANSIT THROUGH THE TERRITORY OF THE REPUBLIC OF CROATIA TO AND FROM THE PORT OF PLOČE AND THROUGH THE TERRITORY OF BOSNIA AND HERZEGOVINA AT NEUM

The Republic of Croatia (hereinafter Croatia) and Bosnia and Herzegovina (hereinafter "the Parties"),

Proceeding from common interests in the development of overall bilateral cooperation on an equal and mutually beneficial basis, with the intention of contributing to the improvement of neighborly relations between the two States, and to the strengthening of mutual friendship, understanding and confidence, to the reinforcement of peace and stability with full respect for the political independence, sovereignty and territorial integrity of Croatia and Bosnia and Herzegovina;

Recalling the provisions of the United Nations Convention on the Law of the Sea (1982), the Convention and Statute on the International Regime of Maritime Ports (1923), and other relevant international agreements;

Noting that at all times in the spirit of mutual respect and confidence building, the Parties shall endeavor to resolve all disputes between them amicably and by mutual agreement;

HEREBY AGREE AS FOLLOWS:

Article 1
Definitions

"Traffic in transit" means transit of persons, baggage, goods and means of transport:

(a) to and from Bosnia and Herzegovina through the territory of Croatia for the utilization of the Port of Ploče; and

(b) to and from Croatia through the territory of Bosnia and Herzegovina for use of the Neum corridor.

"Means of Transport" includes sea and river vessels, road and rail vehicles, aircraft and other means.

I. TRAFIC IN TRANSIT

Article 2
Free and Unimpeded Transit

Croatia shall grant to Bosnia and Herzegovina free and unimpeded transit to traffic in transit for utilization of the Port of Ploče.

Bosnia and Herzegovina shall grant to Croatia free and unimpeded transit to traffic in transit through the Neum corridor.

Article 3
Duties, Taxes, and Other Charges

No duties, custom fees, taxes or other related fees shall be levied on traffic in transit except charges levied for specific services rendered in connection with such traffic.

Article 4
Charges for use of Port Facilities and Labor

Charges levied by the Port Authority of Ploče, in accordance with Article 3, may include charges for operation and maintenance of port facilities and equipment, charges related to cost of debt service for new construction, renovation, and replacement of facilities and equipment and other related costs. Such charges shall, however, not exceed the recovery of costs incurred for such services and shall be no higher than those charged for similar services at comparable Adriatic ports.

Wages and other labor costs at the Port of Ploče shall be no higher than those at other Croatian ports and shall be subject to Croatian labor law.

Article 5
Documentation

The Parties shall use simple documentation in accordance with international practice and apply expeditious methods with respect to administrative procedures regarding traffic in transit.

Article 6
Inspection

1. If either Party has doubts about the authenticity of documents or the legality of traffic in transit through their territory they may request that the shipment be inspected. Such inspection shall be conducted by the European Commission Customs and Fiscal Assistance Office (henceforth "EC-CAFAO") accompanied by the customs authorities of the Party on whose territory the goods are awaiting inspection. Normally inspections will be made on the territory of Bosnia and Herzegovina unless Croatia requests inspection within Croatia.

2. In the event inappropriate documentation or illegal traffic is found, EC-CAFAO will provide a written summary of its findings to the relevant customs authority at the time of inspection for its further action in accordance with applicable domestic law.

3. If no inappropriate documentation or illegal traffic is found then the costs of the inspection will be borne by the requesting Party.

4. Inspections shall not be used to halt or delay bona fide traffic. The Parties shall ensure that traffic not being inspected proceed without delay.

5. EC-CAFAO will carry out this function until the expiration of its mandate at which time the Parties will re-negotiate the modalities of inspection.

II. FREE AND FOREIGN TRADE ZONE AT PLOČE

Article 7
Free and Foreign Trade Zone Ploče

1. So as to enable commercial enterprises of the various users of the Port of Ploče to have access to the facilities and accommodations normally available in a free and foreign trade zone, such as the ability to store, restore, classify, package, repackage, label, assemble, disassemble, process, manufacture, or reassemble goods, without such activities being subject to any tax regime except as provided for in Article 7(2)(c), Croatia shall establish a Free and Foreign Trade Zone ("Zone").

2. (a) The Zone shall be available for use by commercial enterprises from Croatia, Bosnia and Herzegovina, and other port using countries in an equal and non-discriminatory fashion, except as to those advantages and protections stipulated for Bosnia and Herzegovina in this Agreement.

(b) The Zone shall initially be of such a size as to accommodate commercial demand, and will be expanded based upon such demand, taking into account urban planning and ecological constraints.

(c) No duties, taxes or other charges shall be charged to users of the Zone, except for the following:

(i) commercial fees for use of facilities as described in Article 7(2)(d);
(ii) other taxes and payments that each Party chooses to apply to its respective enterprises; and
(iii) goods leaving the Zone which shall be subject to the customs regime of the country into which they are imported.

(d) The users of the Zone shall enter into agreements with the Port Authority which shall give users the right to develop and use appropriate facilities needed for all activities referred to in Article 7(1). Compensation and fees for facilities or services within the Zone will be based upon cost recovery by the Port Authority for operations, maintenance, and debt service on new construction, renovation, or replacement of facilities or equipment within the Zone, and may not be less favorable than existing comparable charges in other such Zones in Croatia. Activities carried out within the Zone shall not receive in any way less favorable treatment than activities outside the Zone.

(e) Management of the Zone shall be by the Port Authority. Decisions of the Port Authority affecting the Zone are subject to review by the Commission pursuant to Article 9. Accounting and financial records covering Zone operations and construction of facilities shall be kept according to international accounting and financial standards. When those records are used as the basis to determine charges, such records shall be made available to users of the Zone.

(f) The provisions regarding traffic in transit in Article 2 of this Agreement shall apply to the Zone. In particular, goods and cargo entering or leaving the Zone shall be given free and unimpeded access to the docks and other facilities of the Port and to ships and other modes of transportation using these facilities.

III. PORT AUTHORITY AND COMMISSION

Article 8
Port Authority

The Board of the Port Authority shall consist of thirteen (13) members, five (5) of whom will be appointed by Bosnia and Herzegovina, and will include representatives of the shippers and users.

Article 9
Commission

1. The Parties shall establish a seven (7) member Commission to supervise, monitor, interpret, and arbitrate the implementation of this Agreement. The Commission will be the final decision-making authority regarding these matters. The Commission will also be the appellate body and final decision-making authority for decisions of the Port Authority regarding personnel, management, charges, rules and regulations and any other decisions of the Port Authority, except for those matters not affecting Bosnia and Herzegovina and, in particular, commercial enterprises of Bosnia and Herzegovina utilizing the Port and the Zone. If three (3) members of the Port Authority Board so request, the Commission will review any decision or ruling of the Port Authority on any matter regarding implementation, including interpretation of the Agreement.

2. Each Party shall nominate three (3) members of the Commission. The Parties shall request that the International Tribunal for the Law of the Sea nominate the seventh member of the Commission to serve as President of the Commission. If the International Tribunal for the Law of the Sea does not nominate a President within sixty (60) days of the signing of this Agreement, the Parties shall request the International Court of Justice (henceforth "ICJ") to nominate an interim president. Should the ICJ fail to nominate an interim president within a further sixty (60) days, the Parties shall request the International Chamber of Commerce to do so. The interim president shall serve until the International Tribunal for the Law of the Sea nominates a seventh member of the Commission to serve as President. Decisions of the Commission shall be reached by a consensus of the members appointed by the Parties. If consensus cannot be reached among the six (6) members appointed by the Parties, the President of the Commission will make the final decision. The decisions of the Commission shall take precedence over any decision of the Port Authority and shall be binding on the Port Authority and on the Parties.

IV. FINAL PROVISIONS

Article 10

With respect to activities undertaken in accordance with this Agreement, the Parties shall not discriminate on the basis of the origin, legal possession, ownership, entrance, exit, and destination of traffic in transit and activities in the Zone.

Article 11

Relevant domestic and international law shall apply to all the issues which are not regulated in this Agreement. This Agreement shall not compel the Parties to grant transit rights contrary to international agreements to which they are Parties or contrary to applicable environmental, health and safety regulations.

Article 12

Upon signature by the Parties, the present Agreement shall be provisionally applied and the "Agreement on the implementation of the agreement between the Republic of Croatia and the Federation of Bosnia and Herzegovina providing passage of Croatia through the territory of the Federation" and the "Agreement on the implementation of the agreement providing access of the Federation of Bosnia and Herzegovina to the Adriatic through the territory of the Republic of Croatia" signed in Zagreb on May 11, 1996 (henceforth "the Agreements") shall provisionally cease to be applied.

Article 13

The present Agreement shall enter into force thirty (30) days after the receipt of the last note via diplomatic channels in which the Parties inform each other that all the requirements of national legislation for the entry into force of the present Agreement are fulfilled. The Parties undertake that, after having signed this Agreement, they shall carry out the procedures for its entry into force as quickly as possible.

This Agreement shall remain in force for thirty (30) years.

Upon entry into force of this Agreement, the Agreements referred to in Article 12 shall cease to be in effect.

Article 14

Each Party may propose amendments to this Agreement. Negotiations regarding such a proposal shall commence within sixty (60) days of notification of such a proposal to the other Party through diplomatic channels.

Done in Zagreb this 22nd day of November 1998, in the Croatian language, in the official languages of Bosnia and Herzegovina and the English language, which shall be equally authentic.

FOR THE REPUBLIC OF CROATIA

FOR BOSNIA AND HERZEGOVINA